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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF OREGON
PENDLETON DIVISION

GREATER HELLS CANYON COUNCIL, an
Oregon nonprofit corporation,
and **OREGON WILD**, an Oregon nonprofit
corporation,

Plaintiffs,

V.

KRIS STEIN, District Ranger, Eagle Cap Ranger
District, Wallowa-Whitman National Forest, in
her official capacity; and **UNITED STATES
FOREST SERVICE**, an agency of the United
States Department of Agriculture,

Defendants,

and

WALLOWA COUNTY, a political subdivision
of the State of Oregon,

Defendant-Intervenor.

Case Number: 2:17-cv-00843-SU

**DECLARATION OF BRIAN KELLY
IN SUPPORT OF PLAINTIFFS'
MOTION FOR INJUNCTION
PENDING APPEAL**

I, Brian Kelly, state and declare as follows:

1. I am a resident of La Grande, Oregon. I have been the Restoration Director for and member of Greater Hells Canyon Council (“GHCC”) since 2005. GHCC, based in La Grande, is a well-known, long-term voice for the conservation community in northeast Oregon. Our focus is on public land management. *To the extent allowed*, we regularly participate in the development and implementation of projects on the Wallowa-Whitman National Forest, including the Lostine Project.

2. I have lived in La Grande for 36 years. During that time, I have spent a considerable amount of time exploring the Wallowa-Whitman National Forest, both in a personal and professional capacity. I have day-hiked and camped in the Lostine Project area on numerous occasions, enjoying the natural beauty of the Lostine Canyon, the mature forests of the area, views into the Eagle Cap Wilderness, and the Lostine River itself. To date, the development in the area has been limited to an unpaved road, a few forest campgrounds and picnic areas, and a historic forest guard station building.

3. Forests like those in the Lostine Canyon are very important to me. I truly appreciate that the Lostine forests predominantly remain undisturbed by previous logging. The natural quality of these intact old-growth forests is an essential feature of my ability to enjoy the Lostine Canyon. As a certified arborist and professional forester,¹

¹ I described my forestry credentials in full in my declaration supporting plaintiffs’ motion for summary judgment. ECF No. 33. Briefly, I have a Bachelor of Science in Plant Sciences from Cornell University which included extensive coursework at the College of Environmental Science and Forestry at Syracuse University. I am a Certified Arborist and attained the Tree Risk Assessment Qualification from the International Society of Arboriculture in 2015. From 1980 to 1996, I worked as a contracting forester, successfully completing numerous contracts with the United States Forest Service

my enjoyment of forests is strongly affected by the forest's condition. Now, with two grown sons and three grandchildren, I also feel a strong sense of responsibility to protect this environment as a gift for the generations of life to come.

4. The lightly managed old growth forests of the Lostine Canyon are a very special place. I personally enjoy the Lostine Canyon forests as a location to enjoy the natural forests and their natural beauty. To quote the great conservationist John Muir, "In every walk with Nature, one receives far more than he seeks." I find my time in the forests of the Lostine Canyon to be restorative and healthy for body, mind and spirit. I would like these natural forests to remain in a natural and beautiful condition for the benefit of my own grandchildren and the next generations of all people as well. Visiting the Lostine, even in August of this year, was rejuvenating. These are very moist forests, particularly when compared to most of the Wallowa-Whitman National Forest. The forests that are scheduled to be logged are predominantly located on the gentle lower slopes below the steep canyon walls rising up to the Eagle Cap Wilderness. Snow falls every winter and remains on the ground until late spring or early summer. The humidity of the nearby

("USFS"). Most of this work was on the Wallowa-Whitman National Forest, and the nearby Umatilla and Malheur National Forests. My contract work included surveying for a variety of plants. I conducted sensitive plant surveys on 765 acres; reforestation surveys on 11,400 acres; and vegetation surveys on more than 70,000 acres of National Forests. The vegetation surveys included timber stand exams where I routinely identified forest tree species and a wide range of other plant species; collected data about forest fuel conditions; identified insect and disease conditions; measured the forest's basal area, canopy cover, trees at breast height, and tree height; estimated defects to timber volume; and bored trees to determine tree ages and growth. I also completed over 7,000 acres of timber cruising on National Forests which involves taking sample measurements of forest stands to estimate the amount of standing timber volume. Finally, I have performed aerial photo interpretation to classify vegetation types on 20 million acres of National Forest lands including forested areas on the Wallowa-Whitman National Forest.

Lostine River adds to the cool and moist conditions. The canopy of the forest is dense and has multiple layers from trees of different heights. As a result, the shade is deep. Walking through the forests, I've been impressed by several indicators of moist forest conditions including the abundance of Engelmann spruce trees and thick layers of moss growing on rocks and down logs. Even in mid to late summer, the down logs covered with moss were moist to the touch. The widespread abundance of the plant known as queen's cup or bead lily (an indicator of a moist forest) on the forest floor is also striking. *See Declaration of Marina Richie in Support of Plfs' Motion for Injunction Pending Appeal*, Ex. A, p. 11 and *Declaration of Robert Klavins in Support of Plfs' Motion for Injunction Pending Appeal*, Ex. E, p. 3. According to the Forest Service's own publication, "Stand replacement fires are uncommon" in this grand fir/ queen's cup forest type and forest stands are "generally not replaced by catastrophic fire." AR00873-01393 (*Plant Associations of the Wallowa-Snake Province, Wallowa-Whitman National Forest* by Charles G. Johnson, JR. and Steven A. Simon, 1987). This forest is a refugium from the heat and dryness of much of the northwest in late summer.

5. I am deeply concerned by the commercial logging proposed for the Lostine Canyon, particularly in the approximately 450 acres of mature, moist forests scheduled to be logged as "resiliency thinning." These forests would be logged quite heavily and a large amount of the trees would be cut down and skidded off to be processed into logs. To remove more than 3.5 million board feet of timber from 450 acres (according to the Forest Service's estimate) along this narrow eleven mile river canyon, will require about eight hundred to one thousand fully loaded log trucks. This would create openings in the canopy allowing the sun's heat to penetrate into the interior of the forest. Removal of

understory trees would also increase wind and air circulation. The net result would be a drying effect on the forest floor and the vegetation. I would expect this to actually make these moist forests more susceptible to fires in certain conditions.

6. Moreover, now that the Forest Service has marked the units for logging, my concerns for this forest are even greater. I'm disappointed to see how few trees will remain in the forest post-logging. I'm also disappointed to see large, old grand fir trees (greater than 21 inches diameter at breast height ("dbh")) marked to be cut as "danger" trees.² These old grand firs are very valuable as wildlife habitat and they would not be considered to be dangerous were it not for the planned logging operations.

7. I'm very concerned that logging operations will damage the soils of these forests. These soils are derived from volcanic ash and are very susceptible to compaction from logging equipment. Compaction is harmful to soils and detrimental to tree growth. The great majority of the Lostine Canyon soils are essentially "untouched" and have never been compacted by heavy machinery. The soils of the Lostine forests currently support a thriving ecosystem of tree roots, fungi, bacteria, invertebrate animals, mosses, vascular

² "Danger" trees are identified by the Forest Service as those affecting work sites and roads within the forest; i.e., in this case timber sale units and roads. Trees in work sites will be heavily scrutinized for their risk or danger potential. For example, a large dead, dying or decayed tree that is far from the Lostine road or campgrounds is not currently a safety hazard. This large tree would likely be well over one hundred years old. Certainly, it will fall over at some point in time, but the risk that it will harm people or property is very low. This tree would remain standing, providing important wildlife habitat. When it falls to the ground, it will provide other ecological benefits to the forest, including enriching the soil. When, the forest becomes a "work site" or timber sale unit, then this large old dying or decayed tree's potential to cause harm is elevated and a "danger." This is especially true when the work involves motorized activity such as logging, grapple piling or building roads. There is a high likelihood the tree would be cut down and, if it has commercial value, removed.

plants and more. Fallen logs decay relatively quickly in these moist forests, returning organic matter and nutrients to the soil. These fragile soils will be damaged by heavy equipment. Logs will be processed and piled in decks in areas called “landings.” These “landings” will be located in areas that are currently healthy forests with healthy soils. The trees will be cut down to make way for the “landings” and the soils in these “landings” will be severely damaged. Often, very large slash piles of logging debris are created on or near these “landings” and these piles are burned at very high temperatures, which I’m concerned will scorch and bury tiny sensitive plants like the *Botrychium* (moonwarts). Additionally, one-and-a-half miles of “temporary” roads will be built through the native forest soils in order to gain access to these forests for logging operations. Even though these “temporary” roads will be “decommissioned” afterward, the damages to the soil will be extremely long-lasting or even permanent. Witnessing these damages to the forest soils of the Lostine Canyon would very unpleasant, sad, and disappointing for me.

8. Considerable damage to the soil, and the long lasting effects of road building and landing sites, could be alleviated if the Forest Service would close the road during implementation of the sale, using the existing road for processing and piling the logs. It is difficult for me to comprehend that the Forest Service is willing to build approximately 20 spur roads and landing sites on relatively untouched, easily compacted soils within this Wild and Scenic river corridor.

9. I do not believe the proposed commercial logging will maintain the ecological resiliency of the Lostine Canyon, nor will it protect the clean water, stable soils, native vegetation and quality habitat for the Canyon’s unique and rare plants and wildlife.

10. I will have little enjoyment in visiting these forests after the commercial logging. Rather than serving as a refuge for me, I will be saddened by the poor treatment of this special, relatively untouched forest. I have no doubt my future experiences here will be greatly diminished possibly for my lifetime and those of my children and grandchildren.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of September 2018.

s/ Brian Kelly
Brian Kelly